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**12. ACT OF AUGUST 21, 1935**  
**(POPULARLY KNOWN AS THE HISTORIC SITES, BUILDINGS, AND**  
**ANTIQUITIES ACT)**  
[As amended through December 31, 1996, P.L. 104-333]

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## 12. ACT OF AUGUST 21, 1935

### (POPULARLY KNOWN AS THE HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT)

(16 U.S.C. 461 et seq.)

AN ACT To provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [16 U.S.C. 461]* That it is hereby declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States.<sup>1</sup>

SEC. 2. [16 U.S.C. 462] The Secretary of the Interior (hereinafter referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 1 hereof, shall have the following powers and perform the following duties and functions:

(a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeologic sites, buildings, and objects.

(b) Make a survey of historic and archaeologic sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.

(c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same.

(d) For the purpose of this Act, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: *Provided*, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: *Provided further*, That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.

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<sup>1</sup>For a complete list of National Historic Sites, National Battlefield Sites, National Heritage Corridors, and related items designated by law or executive action, see 16 U.S.C. 461 note.

(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeologic building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: *Provided*, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.

(g) Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological significance.

(h) Operate and manage historic and archaeologic sites, buildings, and properties acquired under the provisions of this Act together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads, or trails when necessary or desirable either to accommodate the public or to facilitate administration: *Provided*, That the Secretary may grant such concessions, leases, or permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids.

(i) When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeologic site, building, or property donated to the United States through the National Park Service, he may cause the same to be done by organizing a corporation for that purpose under the laws of the District of Columbia or any State.

(j) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and archaeologic sites, buildings, and properties of national significance. Reasonable charges may be made for the dissemination of any such facts or information.

(k) Perform any and all acts, and make such rules and regulations not inconsistent with this Act as may be necessary and proper to carry out the provisions thereof. Any person violating any of the rules and regulations authorized by this Act shall be punished by a fine of not more than \$500 and be adjudged to pay all cost of the proceedings.

SEC. 3.<sup>1</sup> [16 U.S.C. 463] (a) A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed sixteen persons, citizens of the United States who have a demonstrated commitment to the

<sup>1</sup> Section 814(f)(1) of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4197) makes a number of amendments to section 3 of this Act. The amendments affect subsection (a), redesignate subsections (b) and (c), and add new subsections (b), (c), (d), and (e). The amendments will take effect on December 7, 1997. This section is followed by another section 3 with the amendments executed.

National Park System, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, anthropology, biology, geology, and related disciplines, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument. Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.

(b) The National Park System Advisory Board shall continue to exist until January 1, 1995. The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

(c) There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the "advisory council") which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.

SEC. 3. <sup>1</sup> [16 U.S.C. 463] (a) There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall

<sup>1</sup> This section 3 shows the section as amended by section 814(f)(1) of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4197). The amendments will take effect on December 7, 1997. Paragraph (2) of section 814(f) (110 Stat. 4199; 10 U.S.C. 463 note) provides that there are authorized to be appropriated to the National Park System Advisory Board \$200,000 per year to carry out the provisions of this section 3, as amended. This authorization of appropriations also takes effect December 7, 1997.

advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine science, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management, important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1 of chapter 57 of title 5, United States Code. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of this Act, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument. Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.

(b)(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or pen-

alties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(c)(1) Upon request of the Director, the Board is authorized to—

- (A) hold such hearings and sit and act at such times,
- (B) take such testimony,
- (C) have such printing and binding done,
- (D) enter into such contracts and other arrangements.
- (E) make such expenditures, and
- (F) take such other actions, as the Board may deem advisable.

Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

(2) The Board may establish committees or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

(d) The provisions of the Federal Advisory Committee Act shall apply to the Board established under this section with the exception of section 14(b).

(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.

(f) The National Park System Advisory Board shall continue to exist until January 1, 2006. The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

(g) There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the "advisory council") which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory

Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.

SEC. 4. [16 U.S.C. 464] [(a)]<sup>1</sup> The Secretary, in administering this Act, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

(b) When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

(c) Such professional and technical assistance may be employed without regard to the civil-service laws, and such service may be established as may be required to accomplish the purposes of this Act and for which money may be appropriated by Congress or made available by gifts for such purpose.

SEC. 5. [16 U.S.C. 465] Nothing in this Act shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under this Act.

**SEC. 6. [16 U.S.C. 466] REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR PROJECTS UNDER THE HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT.**

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of the Interior to carry out section 2(e) or 2(f) may be obligated or expended after the date of enactment of this section—

(1) unless the appropriation of such funds has been specifically authorized by law enacted on or after the date of enactment of this section; or

(2) in excess of the amount prescribed by law enacted on or after such date.

(b) SAVINGS PROVISION.—Nothing in this section shall prohibit or limit the expenditure or obligation of any funds appropriated prior to January 1, 1993.

(c) AUTHORIZATION OF APPROPRIATIONS.—Except as provided by subsection (a), there is authorized to be appropriated for carrying out the purposes of this Act such sums as the Congress may from time to time determine.

SEC. 7. [16 U.S.C. 467] The provisions of this Act shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter.

<sup>1</sup>Subsection “(a)” in brackets at the beginning of section 4 is omitted from the Act.